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Electron  
PATENT

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AUG 30 2001

Docket No.: 21829/31 (EBC-002)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) :	Wei et al.	)	Examiner:
		)	A. Nelson
Serial No. :	09/412,100	)	
Cnfrm. No. :	9211	)	Art Unit:
		)	1638
Filed :	October 4, 1999	)	
For :	HYPERSENSITIVE RESPONSE ELICITOR	)	
	FRAGMENTS WHICH ARE ACTIVE BUT	)	
	DO NOT ELICIT A HYPERSENSITIVE	)	
	RESPONSE	)	

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231


Dear Sir:

In response to the May 29, 2001, written restriction requirement, applicants hereby elect Group I (i.e., claims 1-9 and 30-38) and SEQ. ID. No. 23, with traverse.

Applicants submit that all groups of invention identified in the outstanding office action are closely related and, therefore, would require common areas of search and consideration. Thus, no benefit is derived from maintaining a restriction requirement and withdrawal of the restriction requirement is respectfully requested.


Respectfully submitted,

Date: August 24, 2001

  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231 on the date below.	
8/24/01 Date	 To Ann Whalen

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

**Prickett *et al.***

Serial No.: 09/561,226

Filed: April 28, 2000

For: MODIFIED EXENDINS AND  
EXENDIN AGONISTS

Group Art Unit: 1653

Examiner: Not yet assigned

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PRELIMINARY AMENDMENT

Commissioner for Patents  
Washington, D.C. 20231

Commissioner:

Before examination, Applicants request entry of the enclosed Substitute Specification, amended Sequence Listing in compliance with 37 CFR §§ 1.821-1.825, and amended Drawings in compliance with 37 CFR §1.121(d).

**REMARKS**

**I. Sequence Listing**

In the course of reviewing their files, Applicants became aware of certain inadvertent errors in the sequence listing originally filed with the instant application. The specification and

drawings contain information that should have been listed in the original sequence listing, but which had not been assigned Sequence ID Numbers ("SEQ ID NOS"). Therefore, Applicants have assigned SEQ ID NOS for all sequences in the specification and drawings, and revised the drawings to reflect the assigned SEQ ID NOS.

CERTIFICATE OF MAILING  
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

8/24/01

Date of Deposit

Edward O. Krensser

Name of Person Mailing Paper

SK

Signature of Person Mailing Paper

Applicants have assigned SEQ ID NOS for all sequences in the specification and drawings, and revised the drawings to reflect the assigned SEQ ID NOS.

## II. Specification

In addition to adding SEQ ID NOS, Applicants have corrected three typographical errors in the specification as follows.

On page 40, Line 8, "Xaa<sub>18</sub>" has been deleted. As a placeholder in this position, it was erroneously inserted originally. It is apparent that this was merely an error – as can be seen from the amino acid numbering, if no correction was made, there would be two position 18s in the amino acid sequence. That this is a typographical error is further confirmed by the assignment of variables below (no position 18 is identified, as it is Alanine in the intended sequence). This amendment therefore adds no new matter.

On page 42, Line 12, the first occurrence of "Xaa<sub>5</sub>" has been changed to read "Xaa<sub>4</sub>," as there were two Xaa<sub>5</sub>'s in sequence. This is obviously a typographical error and adds no new matter.

On page 42, Line 13, "Xaa<sub>18</sub>" has been deleted, as was done in the sequence discussed above on page 40. It is apparent that this was a typographical error from the amino acid numbering and if not corrected, there would be two position 18s. That this is a mere typographical error is further confirmed by the assignment of variables below (no position 18 identified, as it is Alanine in the intended sequence). This amendment therefore adds no new matter.

These amendments and others are provided in a substitute specification. Due to the number of amendments to the specification, a substitute specification pursuant to 37 C.F.R. § 1.125 is submitted herewith, both in clean and marked-up comparison copies, to facilitate the prosecution of this application. <sup>10 12 15 15 21 22 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100</sup> Numbered paragraphs 22, 36, 50, 51, 68, 80, 96, 97, 112, 134, 150, 160, 162, 207, 209, 219, and claims 8-11 are affected. This substitute specification adds no new matter, and Applicants request that it be entered.

**A. Drawings**

Also enclosed are revised drawings of Figs. 1, 2, 3, and 4A-4J, which have been amended to add or correct SEQ ID NOS. Applicants respectfully request that the Examiner approve the request for drawing correction. Applicants have amended Figures 1, 2, 4C, 4D, 4H, 4I and 4J to include SEQ ID NOS. Applicants have amended Figures 3, 4A, 4B, 4E, 4F and 4G to add or correct SEQ ID NOS. Original drawings 3, 4A, 4B, 4E, 4F and 4G also had reference to "compound" numbers that are not fully recited in the specification. References to compound numbers in these drawings have been deleted in these Figures as unnecessary, particularly since all compounds now have been assigned SEQ ID NOS. The text in the top left corner box of Figures 4A, 4E, 4F, and 4G has been amended from "Amino Acid Position" to -SEQ ID NO.— for clarity. None of these changes add new matter, and Applicants request that the Examiner approve the amendments to the drawings. None of these changes add new matter, and Applicants request that the Examiner approve the amendments to the drawings.

Applicants enclose herewith two copies of each sheet of revised drawings. The changes to the drawing are marked in red, indicating the proposed correction to the drawing. Applicants will provide new drawings in compliance with 37 CFR §1.84 that include the changes upon approval by the Examiner.

These amendments are believed to put the application in better form for examination and allowance. Applicants respectfully request entry of these amendments prior to examination. If the Examiner would like to discuss any of these amendments, he or she is invited to call the undersigned to discuss them.

No fees are believed due with this submission. However, if any fee is due, please charge the appropriate amount to Deposit Account No. .50-1273.

Respectfully submitted,

Dated: \_\_\_\_\_

8/24/01

By: \_\_\_\_\_



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